

ISMAIL J. RAMSEY (CABN 189820)
United States Attorney

MARTHA BOERSCH (CABN 126569)
Chief, Criminal Division

CHRISTIAAN HIGHSMITH (CABN 296282)
DAVID WARD (CABN 239504)
Assistant United States Attorneys

MATTHEW CHOU (CABN 325199)
Special Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495
Telephone: (415) 436-7200
FAX: (415) 436-7230
christiaan.hightsmith@usdoj.gov
david.ward@usdoj.gov
matthew.chou2@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) CASE NO. 20-CR-00249 RS
Plaintiff,)
v.) UNITED STATES' EX PARTE APPLICATION
ROWLAND MARCUS ANDRADE,) AND [PROPOSED] ORDER PERMITTING
Defendant.) DISCLOSURE OF GRAND JURY TRANSCRIPTS
)
)
)
)
)

The United States respectfully requests an Order under Federal Rule of Criminal Procedure 6(e)(3)(E)(i) authorizing the government to provide defendant's counsel transcripts of the grand jury testimony of three civilian witnesses. The trial in this matter is scheduled to begin on February 11, 2025.

The secrecy provisions of Federal Rule of Criminal Procedure 6(e) provide in part that: "The court may authorize disclosure—at a time, in a manner, and subject to any other conditions that it directs—of a grand-jury matter . . . (i) preliminarily to or in connection with a judicial proceeding." Fed. R. Crim. P. 6(e)(3)(E)(i). In *U.S. Industries, Inc. v. United States District Court*, 345 F.2d 18 (9th Cir.), cert. denied,

1 382 U.S. 814 (1965), the Ninth Circuit held that when the reasons for the policy of secrecy “do not apply
 2 at all in a given situation, or apply to only an insignificant degree, the party seeking disclosures should
 3 not be required to demonstrate a large compelling need.” *Id.* at 21. The Ninth Circuit listed five policy
 4 considerations underlying the need for grand jury secrecy:

5 (1) To prevent the escape of those whose indictment may be contemplated;
 6 (2) to insure the utmost freedom to the grand jury in its deliberations, and
 7 to prevent persons subject to indictment or their friends from importuning
 8 the grand jurors; (3) to prevent subornation of perjury or tampering with the
 9 witnesses who may testify before the grand jury and later appear at the trial
 10 of those indicted by it; (4) to encourage free and untrammeled disclosures
 11 by persons who have information with respect to the commission of crimes;
 12 (5) to protect the innocent accused who is exonerated from disclosures of
 13 the fact that he has been under investigation, and from the expense of
 14 standing trial where there was no probability of guilt.

15 *Id.* at 22 (quoting *United States v. Amazon Ind. Chem. Corp.*, 55 F.2d 254 (D. Md. 1931)).

16 In this case, the policy considerations requiring secrecy over the transcripts apply with diminished
 17 force. The matter is set soon to proceed to trial. *See In re William H. Pflaumer & Sons, Inc.*, 53 F.R.D.
 18 464, 470 (E.D. Penn. Oct. 14, 1971) (stating that “once a grand jury has concluded its work, the courts
 19 have, to some degree, relaxed the secrecy principle”). At trial, disclosing the testimony of three civilian
 20 witnesses presented to the grand jury would not implicate these policy concerns. Moreover, disclosure of
 21 the grand jury testimony is in the interest of justice because it will permit defendant’s counsel to have
 22 potential Jencks Act materials before trial pursuant to 18 U.S.C. § 3500.

23 DATED: January 7, 2025

24 Respectfully submitted,

25 ISMAIL J. RAMSEY
 26 United States Attorney

27 _____
 28 /s/
 29 CHRISTIAAN HIGHSMITH
 30 DAVID WARD
 31 Assistant United States Attorneys

32 MATTHEW CHOU
 33 Special Assistant United States Attorney

1
2 **[PROPOSED] ORDER**

3 Pursuant to Federal Rule of Criminal Procedure 6(e)(3)(E)(i), the United States may supply
4 counsel for the defendant in this case with three transcripts of the grand jury testimony of civilian
5 witnesses presented to the grand jury in the investigation that led to this case.

6 **IT IS SO ORDERED.**

7
8 DATED: _____

9 _____
10 HON. RICHARD SEEBORG
11 Chief United States District Judge